*HONOURABLE SRI JUSTICE P.S.NARAYANA

+ WRIT PETITION No.16124 OF 2007

% DATED: 11-10-2007

1.M/s. Yogendra Builders, represented by its Partners and another.

…. PETITIONERS.

Vs.

1. Sri Vidya Paradise Owners' Welfare Association represented by its President, Smt. Kasimohanty Gowri Bharati and another.

…RESPONDENTS.

<GIST

>HEAD NOTE:

! Counsel for the Writ petitioners: SRI D.V.MADHUSUDAN RAO

^Counsel for the 1st respondent: Ms.V.Chaitanya Latha
and
Sri Ch.R.Vasantha Kumar

^Counsel for the 2nd respondent: Govt. Pleader for Civil Supplies.

? Cases referred

1. AIR 2000 SC 941
2. (2002) 6 SCC 635
3. AIR 1999 Madras 24
4. 2004 (3) ALT 788 (D.B.)

HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No: 16124 of 2007

Dated 11-10-2007

Between:

1. M/s. Yogendra Builders, represented by its Partners, Door No.1-51-8/2, Sector-1, M.V.P. Colony, Visakhapatnam and another.

. Petitioners.

And:

1. Sri Vidya Paradise Owners' Welfare Association represented by its President, Smt. Kasimohanty Gowri Bharati, wife of late K.N.Patnaik, Hindu, aged 47 years, situate at Sector-2, M.V.P. Colony, Visakhapatnam and another.

…Respondents.

ORDER:

Heard Sri D.V. Madhusudan Rao, learned counsel representing the writ petitioners and the learned Government Pleader for Civil Supplies.

2. The Writ Petition is filed for issuance of writ of certiorari calling for records relating to order dated 16-6-2007 passed in I.A.No.199 of 2006 in C.C.No.23 of 2006 on the file of District Consumer Forum-II, Visakhapatnam and quash the same being violative of Section 13 (4) (v) of the Consumer Protection Act, illegal, and unconstitutional and pass such other suitable orders.

3. This Court ordered notice before admission on 30-7-2007 and further made the following order:

> "Pending further orders, there shall be interim stay of all further proceedings in C.C.No.23 of 2006 on the file of the Court of the District Consumers Forum-II, Visakhapatnam for a period of two weeks from today."

Subsequent thereto, the said interim order was extended until further orders on 14-08-2007.

4. Sri Madhusudhanarao, the learned counsel representing the petitioners had taken this Court through the order impugned in the writ petition and would maintain that the said order cannot be sustained and the same is liable to be quashed since the power to appoint an Advocate Commissioner to make a local inspection under Order XXVI Rule 9 of Code of Civil Procedure, is not specifically conferred on the Consumer Fora. The counsel also had taken this Court through the relevant provisions of the Consumer Protection Act and would maintain that in the absence of such power being conferred by the Statute, making such an order is definitely without authority and without jurisdiction and hence, the said order is liable to be quashed. The Counsel also had placed strong reliance on several decisions to substantiate his submissions.

5. Per contra, the learned Government Pleader for

Civil Supplies, however, would contend that it is no doubt true that such power is not specifically conferred by the Statute but inasmuch as summary trial is contemplated by the Act if the Consumer Fora are satisfied in any given case, that the noting down of the physical features may be highly essential and by an oral evidence, the Consumer Fora may not be able to appreciate the questions involved, effectively may be, that such procedure may be followed on the ground of fair play and also principles of natural justice.

6. Sri P.Rajavardhan Reddy had taken this Court through the impugned order and would maintain that in the facts and circumstances of the case, a just and proper order had been made and the same not to be disturbed by this Court while exercising the powers under Article 226 of the Constitution of India. The learned counsel also would maintain that under the scheme of the Consumer Protection Act, since specific remedies are available, the petitioners approaching this Court under Article 226 of the Constitution of India may have to be discouraged.

7. Heard the counsel on record and perused the impugned order.

8. The 1st respondent filed C.C.No.23 of 2006 on the file of the Honourable Principal District Consumer Forum-II, Visakhapatnam alleging that the members of the 1st respondent's Association purchased individual flats from the opposite parties, on various dates and the opposite parties promised to provide several facilities to the members of the 1st respondent's Association for valuable consideration. It is further alleged that though the opposite parties have delivered the individual flats to the members of the 1st respondent's

association but failed to hand over the common amenities and the common areas to the 1st respondent's association till date, in spite of repeated demands made by the 1st respondent's association to deliver its possession.

9. It is further alleged that the opposite parties rendered several deficient works and did not choose to rectify the same in spite of repeated demands made by the 1st respondent's association. The following are the defective works rendered by the opposite parties. It is further alleged that the opposite parties have sunk the bore well at a depth of 50 feet only for the flats consisting 25 in numbers as against the promised depth of 120 feet which is very inadequate and insufficient, besides the opposite parties have also failed to install the submersible pump as promised and instead left the motor which was used by the opposite parties extensively during the construction period, instead of installing the new submersible pump. The old motor installed by the opposite parties is frequently giving troubles and frequent failures, besides the due to its wear and tear the motor consuming huge electrical energy causing severe recurring financial loss to the members of the 1st respondent's association. The opposite parties have installed an unknown company's lift instead of a reputed company's life with ISI standard make and the opposite parties also fixed a non-standard lift and reduced the provision of lift to so small and fixed a local made lift which is very small even to accommodate six persons and the doors of the lift were quite unsafe and often opening while the lift is in operation, thus causing severe threat to the lives of the members of the 1st respondent's association and the lift broke down quite often and it is only a name sake lift and hardly served its purpose and some of

the members of the 1st respondent's association, who have purchased the flats from the opposite parties which were on the top floors, purchased the same only by considering the provision of lift and generator and due to the failure of the opposite parties to provide the lift manufactured by any of the reputed companies, and by providing a non-standard and inferior quality lift, the members of the 1st respondent's association are suffering with severe physical strain and mental agony.

10. The President of the 1st respondent association who is handicapped in an accident is suffering quite frequently due to break down of the lift quite often and the earnest request made by the members of the 1st respondent's association in spite of repeated demands proved in futile. It is further alleged that even the Generator provided by the opposite parties also met with similar fate with frequent repairs and incurring heavy expenses to the members of the 1st respondent's association and the opposite parties are least bothered to rectify its defects in spite of repeated demands made by the complainant and its members and the opposite parties have failed to rectify the defects in the bore-well, lift and the generator in spite of repeated demands made by the 1st respondent's association. It is further alleged that the opposite parties used very substandard materials in the construction and the cellar flooring and the terrace flooring provided by the opposite parties are already giving away due to the use of inferior materials and the opposite parties have not cared to rectify the same and the opposite parties are liable to rectify the same.

11. It is also alleged that though the opposite parties have collected huge amount towards individual car parking, the

opposite parties have provided the name sake car parking slots in favour of the members of the 1st respondent's association, which is very inadequate even to park the smaller range of cars and the opposite parties though promised to provide sufficient parking to some of the members of the 1st respondent's association who have booked the flats on first come first serve basis, but the opposite parties out of their greediness to earn more money and taking undue advantage of the necessities of some of the members of the 1st respondent's association are going on allotting the parking space without sufficient width and thus causing severe inconvenience for the ingress and egress of the vehicles and thus by their illegal act of allotting insufficient parking, the members of the 1st respondent's association are not in a position to utilize the parking effectively and provision made by them remained as name sake parking and when the complainant questioned the same, the opposite parties heeded deaf ear to the 1st respondent's representations. It is further alleged that the opposite parties have got installed the inferior and substandard quality electrical fittings in the common areas as against the ISI standard fittings of repute make resulting in frequent electrical failures and the opposite parties are liable to replace the entire electrical fittings in the common areas with ISI standard repute appliances. It is further alleged that the opposite parties have collected a sum of Rs.25,000/- each from the members of the 1st respondent's association towards installation of electrical transformer charges in the apartment exclusively but quite surprisingly the opposite parties have allowed and shared the installation of electrical service connections of neighbouring apartment, Nikhil's Paradise and even though the expenses are

shared by the owners of both apartments and the opposite parties have failed to give its expenses statement in spite of repeated demands made by the 1st respondent and unjustly profited even out of the same at the expense of the members of the 1st respondent's association.

12. Further it is alleged that when some of the members of the 1st respondent's association objected to the illegal acts of the opposite parties, the opposite parties threatened the members of the 1st respondent's association with dire consequences in case the members of the 1st respondent's association makes any demand and the opposite parties even visited the work places of the members of the 1st respondent's association and kept shouting at them for making the lawful demand only with a view to degrade the members of the 1st respondent's association amongst their colleagues. It is further alleged that vexed with the attitude of the opposite parties in not rectifying the defects in spite of its repeated demands, the 1st respondent got issued a registered lawyer's notice dated 05-02-2005, against the opposite parties demanding them to rectify the defects, such as sinking of bore well with the depth of 120 feet, installing of new submersible pump, providing the lift of repute make with ISI standards with sufficient room capacity to carry minimum of six members, providing defect free generator of repute make with ISI standard, flooring of cellar, to provide ISI standard electrical fittings in common areas, to provide adequate parking slots to the members, to account for the expenses relating to installation of transformer and to refund the balance amount, to handover the common areas and the amenities along with relevant link documents, plans, etc., to the complainant and to pay a sum

of Rs.20,000/- to each member of the 1st respondent's association towards compensation for causing mental agony and financial hardship, within 15 days of receipt of this notice and cautioned the opposite parties not to indulge in any criminal activities and though the opposite parties acknowledged the receipt of the notice did not choose to rectify the same but sent a reply lawyer's notice with false contentions. It is further alleged that the opposite party sent a reply lawyer's notice dated 7-3-2005 by stating that the common areas and common amenities in their very nature are such that they cannot be physically delivered to anybody.

13. In Muvvalavanipalem Colony, there is absolutely no problem for water and that the water strikes even at a depth of 20 feet however, the opposite parties provided the bore well at a depth of 100 feet and that they never promised any submersible bore pump and that the opposite parties had installed a brand new 'Texmo' pump of 1.5 H.P. on 17-10-2001 and that it was used during the construction work and denied the defects in it. It is further alleged that they have provided the lift manufactured by Excel Engineering Corporation with Japanese collaboration which is a standard company with provision for 6 persons and that a special device has been provided in the lift which enables the lift to reach the nearest floor in case of power failure when the doors automatically open and denied the defects in it.

14. It is further alleged that the opposite parties also denied the defects with regard to the defective generator and stated that the opposite parties own three flats in the apartment and according their information the need to use the generator has not arisen so far and denied the defects in the generator. It is further alleged that the opposite parties in reply to the defective

flooring gave reply by stating that the Secretary of the 1st respondent's association indiscriminately opened the flooring at several places when a drainage pipe get stuck without caring for the junction marks and thereby damaged the flooring in the cellar at several places and thus denied the same. It is further alleged that as far as the parking is concerned, the opposite parties stated that 25 car parking plots of adequate size are provided which is sufficient to enable to movement of the cars. The entire building was provided with Finolex wiring and Anchor switches and tube lights with ISI mark were fixed and stated that there is no replacement required. It is further alleged that the opposite parties with reference to the transformer is concerned stated that there is no need for accounting for collection of Rs.25,000/- since the amount collected is not only for the transformer it is also for the Phase III meter and underground cables and the said amount was collected at a flat rate as a package and stated that it was collected as package and that the opposite parties need not account for the same. It is further alleged that the members of the 1st respondent's association are put to severe mental agony, financial hardship and physical stress due to the negligence, deficiency in service and unfair trade practices of the opposite parties due to their installation of the sub-standard items of less repute companies which result in frequent failures, besides endangering to the lives of the members of the 1st respondent's association as such the members of the 1st respondent's association are entitled to claim compensation of Rs,.20,000/- each to the members of the association.

15. It is also stated that while the matter stood thus, respondent No.1 filed an interlocutory application in I.A.No.199 of

2006 and the same was allowed by an order dated 16-6-2007. Aggrieved by the same, the present writ petition had been filed.

16. It is needless to say that order XXVI Rule 9 of the Code of Civil Procedure deals with the appointment of an advocate Commissioner to make local investigation. The Consumer Protection Act, 1986 (hereinafter referred to as 'the Act' for the purpose of convenience) was enacted to protect the interests of the consumers and for that purpose to provide for the establishment of the Consumer Fora and other authorities for settlement of consumer disputes and matters connected therewith. The preamble of the Act makes the object of the Act very clear and also explains the scope and applicability of the Act. Section 13 of the Act deals with the procedure on admission of the complaint. Section 13 (4) of the Act reads as hereunder:

> "For the purposes of this section, the District Forum shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit in respect of the following matters, namely—
>
> (i) the summoning and enforcing the attendance of any defendant or witness and examining the witness on oath;
>
> (ii) the discovery and production of any document or other material object producible as evidence;
>
> (iii) the reception of evidence on affidavits;
>
> (iv) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;
>
> (v) issuing of any commission for the examination of any witness; and
>
> (vi) any other matter which may be prescribed."

17. Section 13 (4) (5) and (6) may be relevant for the present purpose and (5) specifies issuing of any commission for examination of any witness and (6) specifies any other matter which may be prescribed.

18. It is not in serious controversy that the appointment of Commissioner for local investigation had not been specifically referred to in any of the sub-clauses of Sub-Section (4) of Section 13 of the Act aforesaid. Section 30 of the Act deals with power to make rules. The additional powers of the National Commission, State Commission and District Fora had been dealt with by Rule 10 of the Consumer Protection Rules, 1987 and the said Rule reads as hereunder:

"Additional powers of the National Commission, State Commission and District Forum—

(1) The National Commission, the State Commission and the District Forum shall have power to require any person.

(a) to produce before, and allow to be examined and kept by an officer of the National Commission, the State Commission or the District Forum, as the case may be, specified in this behalf, such books, accounts, documents or commodities in the custody or under the control of the person so required as may be specified or described in the requisition, if the examination of such books, accounts, documents or commodities are required for the purpose of this Act;

(b) to furnish to an officer so specified, such information as may be required for the purpose of this Act.

(2) (a) Where during any proceeding under this Act, the National Commission, the State Commission or the District Forum, as the case may be, have any ground to believe that any book, paper, commodity or document

which may be required to be produced in such proceeding are being, or may be destroyed, mutilated, altered, falsified, or secreted, it may, by written order, authorize any officer to exercise the power to entry and search of any premises. Such authorized officer may also seize such books, papers, documents or commodities as are required for the purpose of this Act:

Provided that seizure shall be communicated to the National Commission, the State Commission or the District Forum, as the case may be, as soon as it is made or within a period not exceeding 72 hours of making such seizure after specifying the reasons in writing for making such seizure.

(b) The National Commission, the State Commission or the District Forum, as the case may be, on examination of such seized documents or commodities, as the case may be, may order the retention thereof or may return it to the party concerned."

19. Rule 5 of Andhra Pradesh State Consumer Protection Rules, 1987 deals with the procedure to be adopted by the District Forum for analysis and testing of the goods which reads as follows:

"Under Section 13, (1) (c), if considered necessary, the District Forum may direct the complainant to provide more than one sample of the goods in clean containers with stopper properly fixed on them.

(2) On receiving the samples of such goods, the District Forum shall seal it and fix labels on the containers carrying following information:--

(i) name and address of the appropriate laboratory to whom sample will be sent for analysis and test;

(ii) name and address of the District Forum;

(iii) case number;

(iv) seal of the District Forum.

(3) The sample will be sent to the appropriate laboratory by the District Forum for sending report within 45 days or within such extended time as may be granted by the District Forum

after specifying the nature of the defect alleged an date of submission of the report."

20. IN NEW INDIA ASSURANCE COMPANY LTD., v. R.SRINIVASAN ([1]), while dealing with the applicability of the Order 9 Rule 9 of Code of Civil procedure to a consumer dispute, the Apex Court observed at paras 8,9,10 and 16.

"The above will show that powers which are available to a civil Court under the Code of Civil Procedure have also been made available to the District Forum in respect of matters enumerated in sub-section (4) of Section 13."

"The provisions of Order 9 have not been made applicable to the proceedings under the Consumer Protection Act. Order 9 deals with appearance of parties and consequence of non-appearance. It is provided by Rule 2 of Order 9 that if the plaintiff was found to have not taken any step for service upon the defendant, the suit would be dismissed. Rule 3 contemplates dismissal of suit for non-appearance of the parties. If the suit is dismissed under Rule 3 on account of non-appearance of the parties, it would be open to the Court to set aside the order by which the suit was dismissed and to restore the suit to its original file. Rule 4 also enables the plaintiff, whose suit was dismissed under Rule 3, to bring a fresh suit. But where the suit is dismissed under Rule 8 for non-appearance of the plaintiff, though the defendant is present, it will not be possible for the plaintiff to bring a fresh suit in respect of the same cause of action on account of the prohibitions contained in sub-rule (1) of Rule 9 of Order 9. But it will be open to the Court to recall the order and restore the suit. It is this Rule which is being relied upon by the counsel for the appellant in support of his contention that the complaint filed by the respondent having been once dismissed and the restoration application having also been rejected, it was not open to him to file a fresh complaint on the same cause of action against the appellant."

"We have already indicated above that the Code of Civil Procedure has been applied to the proceedings under the Consumer Protection Act only to a limited extent. If

the intention of the Legislature was to apply the provisions of Order 9 also to the proceedings under the Consumer Protection Act, it would have clearly provided in the Act that the provisions of Order 9 will also be applicable to the proceedings before the District Forum or the State Commission or, for that matter, before the National Commission. If the Legislature itself did not apply the rule of prohibition contained in Order 9, Rule 9 (1), it will be difficult for the Courts to extend that provision to the proceedings under the Act."

"This Rule is in identical terms with sub-rule (8) of Rule 4 and sub-rule (8) of Rule 8. Under this sub-rule, the appeal filed before the State Commission against the order of the District Forum, can be dismissed in default or the State Commission may in its discretion dispose it of on merits. Similar power has been given to the National Commission under Rule 15 (6) of the Rules made by the Central Government under Section 30 (1) of the Act. These Rules do not provide that if a complaint is dismissed in default by the District Forum under Rule 4 (8) or by the State Commission under Rule 8 (8) of the Rules, a second complaint would not lie. Thus, there is no provision parallel to the provision contained in order 9, Rule 9 (1), CPC which contains a prohibition that if a suit is dismissed in default of the plaintiff under Order 9, Rule 8, a second suit on the same cause of action would not lie. That being so, the rule of prohibition contained in Order 9 Rule 9 (1) C.P.C. cannot be extended to the proceedings before the District Forum or the State Commission. The fact that the case was not decided on merits and was dismissed in default of non-appearance of the complainant cannot be overlooked and, therefore, it would be permissible to file a second complaint explaining why the earlier complaint could not be pursued and was dismissed in default."

21. Reliance was also placed on DR. J.J.MERCHANT AND OTHERS v. SHRINATH CHATURVEDI ([2]) while dealing with practice and procedure, to avoid delay, the National Commission can evolve a procedure to permit cross-examination by putting written questions which could be replied by

the experts on affidavits and in appropriate cases even video conference or telephonic conference could be arranged for their cross-examination, cost whereof initially to be borne by the party claiming such conference and cross-examination can even be taken by Commissioner appointed by the Commission.

22. The learned judge of the Madras High Court in RAMANIYAM REAL ESTATES Ltd., TRIVENI APARTMENTS OWNERS WELFARE ASSOCIATION ([3]) while dealing with the competency of the District Consumer Forum to issue commission for local inspection observed that the District Consumer Forum and State Consumer Forum have powers to issue a commission to make a local inspection and the District Forum, State Commission and National Commission have all the trappings of the Civil Court and the proceedings are legal proceedings and they are also adjudicating dispute between parties.

23. Reliance was also placed on KUMMARI RAMULU v. GANGARAM PENTA REDDY AND OTHERS ([4]) whereunder the Division Bench of this Court while dealing with Rule 7 of the Andhra Pradesh Panchayat Raj (Election Tribunals in respect of Gram Panchayats, Mandal Parishads and Zilla Parishads) Rules, 1995 and also Order 1 Rule 10 of Code of Civil Procedure observed at paras 9 and 10 thus:

> "Rule 7 lays down the procedure for trial of election petitions. Sub-rule (1) says that every election petition shall be enquired into by the election tribunal, as early as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 for the trial of suits. It also provides that it shall only be necessary for the Election Tribunal to make a memorandum of substance of evidence of any witness examined by him. Sub-rule (2) simultaneously provides that the election tribunal shall have the powers, which are vested in a Court under the Code of Civil Procedure,

1908, when trying a suit, in respect of the matters enumerated therein. Rule 7 reads:

"(1) Every election petition shall be enquired into by the Election Tribunal, as early as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 for the trial of suits;

Provided that it shall only be necessary for the Election Tribunal to make a memorandum of the substance of evidence of any witness examined by him.

(2) The Election Tribunal shall have the powers which are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters:

(a) discovery and inspection;

(b) enforcing the attendance of witness and requiring the deposit of their expenses;

(c) compelling the production of documents;

(d) examining witnesses on oath;

(e) reception of evidence taken on affidavit; and

(f) issuing commissions for examination of witnesses, and may summon and examine *suo motu* any person whose evidence appears to him to be material."

"The powers which the Election Tribunal has got while trying election petition, which are vested in a Court while trying the suit under the Code of Civil Procedure, are only for discovery and inspection, enforcement of attendance of witnesses and requiring deposit of expenses, compelling production of documents, examining witnesses on oath, reception of evidence taken on affidavit and issuing commission for examination of witnesses. Nowhere the rule makes a provision that Election Tribunal shall have the power to permit amendment of election petition or addition, substitution or deletion of parties, which is a specific power available to a civil Court while trying a suit under the Code of Civil Procedure. Law enjoins upon trial of election petition expeditiously. That being the purpose,

> the Legislature in its wisdom rightly conferred specific powers on the Election Tribunal while trying election petition, which are enjoined upon a Civil Court while trying civil suit, and not all the powers exercisable by a Civil Court as provided under the Code of Civil procedure. That being the purpose, it has to be assumed that the powers, which are not mentioned in the rules, cannot be exercised by the Election Tribunal. Moreover, power to permit addition of a party after the period of limitation is such a power that can be exercised only when it is specially conferred on the Tribunal. For that a Division Bench of this Court in *Beerapalli Swaminatha Janaki Venkata Ramana Reddy v. Attkuri Ammi Raju and others*, while dealing with the question of power of Election Tribunal in ordering transposition of party under Order 1 Rule 10 of the Code of Civil Procedure while trying election petition under the Panchayat Samithis and Zilla Parishads Act, 1959, held that such a power is not conferred on the Tribunal and that the Tribunal can exercise only those powers which were conferred upon it."

24. It is needless to say that normally Courts are not expected to legislate but are expected to interpret the provisions of the Statute. The Act is silent as far as the power relating to the appointment of Commissioner to make local inspection. It is no doubt true that the procedure to be adopted is summary procedure and all the provisions of the Code of Civil Procedure as such are not made applicable and certain provisions alone had been specified while conferring powers under Section 13 (4) of the Act specified above. It is pertinent to note that if the object of the Act be carefully examined, there may be cases where the noting down of the physical features may be very essential and any amount of oral evidence may not be able to replace such noting down of the physical features by a competent person. Order XXVI Rule 9 of the Code of Civil Procedure, as such, may not be applicable but if the Consumer Fora, the State Commissions or the National

Commission as the case may be, these are satisfied that opinion of an expert, specialist, skilled person or any other person of a like nature and their opinion may be essential for proper adjudication of the dispute, definitely, they can exercise such powers for the purpose of appropriate decision making in relation to the disputes.

25. However, in the light of the facts and circumstances of the present case since a Commission for local inspection had been appointed and since such power is not conferred either under the provisions of Act or the Rules, this Court is of the considered opinion that the said order cannot be sustained and the same is liable to be quashed and accordingly, it is hereby quashed. But however, it is made clear that the District Forum is at liberty to make appropriate directions in the light of the observations made above in the peculiar facts and circumstances.

26. With the above observations, the Writ Petition is hereby allowed. No order as to costs.

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Justice

P.S.NARAYANA

Dated 11-10-2007.
L.R. Copy to
be marked.

B.O.
Dvs

HON'BLE SRI JUSTICE P.S.NARAYANA

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WRIT PETITION No: 16124 of 2007

Dated 11-10-2007

[1] AIR 2000 SC 941
[2] (2002) 6 SCC 635
[3] AIR 1999 Madras 24
[4] 2004 (3) ALT 788 (D.B.)